



Cosmetic and Plastic Surgery of Frederick

*Scott E. Andochick, M.D., D.D.S., P.A.*

Board Certified by

The American Board of Plastic Surgery

Scott E. Andochick, M.D.



Member, The American  
Society of Plastic Surgeons

May 28, 2005

RECEIVED

JUN 13 2005

CON Commissioner Robert Nicolay  
Chairman, Certificate of Need Task Force  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

MARYLAND HEALTH  
CARE COMMISSION

Dear Commissioner Nicolay:

My name is Dr. Scott Andochick and I am a board certified plastic surgeon in my eleventh year of practice in Frederick, Maryland. I currently operate a one OR facility with two procedure rooms that has Medicare approval and JCAHO approval, but I do not have a CON.

Approximately ten years ago, I began communicating with the Maryland Health Care Commission about the possibility of obtaining a CON. I have enclosed some of the correspondence which dates back to 1994. My original goal was to build a two OR ambulatory surgical center with investment from other physicians who would utilize the center and I became the team leader in pursuing a CON. Due to the complexity of the process, I hired Phyllis Sanford, a consultant who specializes in the CON process. I paid her a \$25,000 standard fee as well as numerous other separate item billings over a two year period. The process involved individual time and effort on my part as well as numerous meetings with Phyllis. At the time, we were working with Ruby Potter who could not guarantee us a CON, but was optimistic about the process which was enough to keep us motivated. Several CON commission leaders visited our site and met with Phyllis which brought even more positive feedback. After acceptance of our CON application, there was a thirty day comment period. I received Frederick Memorial Hospital's rebuttal by their attorneys at Venable and later understood that the hospital was upset that they had missed out on the CON application process as they wanted to add two more OR's to their OR suite. I guess this was enough to stall the process as I never had a chance for my application to be reviewed. I spoke with a CON reviewer at the time who told me that due to recent changes coming that I would most certainly be declined a CON and therefore, they recommended that I put my application on hold so that at least I could have a fair review at some point in the future.

I have never heard back from the Maryland Health Care Commission on the status of my CON application and suspect that it has been lost to CON "purgatory". I subsequently went on to build my own office with a single main OR and two procedure rooms without the assistance of other physicians which has been extremely stressful as well as difficult financially. I have obtained Medicare approval and even met with Medicare well before construction for review of my plans. I was forced to move a procedure room further away from the main OR so that I could never convert it to another main OR thereby, side stepping CON and Medicare regulations. I subsequently obtained JCAHO approval at the same level as the hospital and I have equipped the center with state-of-the-art equipment making the environment as safe as absolutely possible.

Over the years, I have watched Frederick Memorial Hospital obtain a CON for additional operating rooms and even watched a new surgical center (Mid Maryland Surgical Center) open just down the street with the same physicians that I originally had on board with me. This developed as a result of an out of state physician/developer from St. Louis who was able to purchase a grandfathered CON from a local podiatrist so that he could build a new surgical center. Upon hearing this, I became very disappointed in the CON process as well as our government. This demonstrated to me that a small town physician or businessman who is simply following his dreams attempting to follow all the rules, will fail but, someone with deeper pockets or political clout can work the system to their advantage.

I was first in my class in medical school and was the AOA president of my class which is one of the highest honors for a medical student. I obtained a prestigious residency at Stanford University in general and plastic surgery as well as formed several post graduate fellowships at wonderful institutions. I have always pursued a general practice in Frederick taking care of general patients and have always joined every insurance company and HMO panel so that I would never have to deny a breast cancer patient the ability to obtain breast reconstruction in Frederick. Despite significant cuts in Medicare and subsequently cuts in HMO payments, I remain dedicated to patient care. Since I could not even obtain a review after years of hard work and \$30,000, I have come to realize that the process is much more political than I initially thought making it difficult for "the little guy" to have much chance.

Thank you very much for your time.

Respectfully,

A handwritten signature in cursive script that reads "Scott Andochick". The signature is written in dark ink and is positioned above the printed name.

Scott E. Andochick, M.D., D.D.S., P.A.

SEA:cls



Cosmetic and Plastic Surgery of Frederick

*Scott E. Andochick, M.D., D.D.S.*  
915 Toll House Avenue • Suite 305  
Frederick, MD 21701



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The American Board of Plastic Surgery

December 17, 1998

VIA HAND DELIVERY

Ms. Ruby Potter  
Health Facilities Coordinator  
Maryland Health Resources Planning Commission  
Metro Executive Building  
4201 Patterson Avenue  
Baltimore, MD 21215-2299

Re: Comments of Dr. Scott E. Andochick in Response to Comments of  
Frederick Memorial Hospital dated December 7, 1998

Dear Ms. Potter:

Enclosed please find six copies of my comments in response to written comments made  
by legal counsel to Frederick Memorial Hospital concerning my CON application.

Please call me if you have any questions regarding these comments.

Sincerely,

Scott E. Andochick, M.D., D.D.S.

Enclosures

cc: John R. Sigsbury, Executive Vice President, Frederick Memorial Hospital  
Peter P. Parvis, Esq. Venable, Baetjer and Howard, LLP





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Re: Comments of Dr. Scott E. Andochick in Response to Comments of  
Frederick Memorial Hospital dated December 7, 1998

Dear Ms. Potter:

I am writing in response to the December 7, 1998, written comments made by the attorneys of Frederick Memorial Hospital concerning my CON application. Upon review, it is obvious that Frederick Memorial Hospital has no shortage of resources and legal expertise to file a lengthy rebuttal to my application.

As a busy solo practicing surgeon, I remain dedicated to my practice and the care of my patients. Having spent 18 years in school and only four years in practice, I do not have the personal resources to assemble a legal team to challenge FMH. I have already invested considerably in time and money in the pursuit of my project. I estimate over \$20,000 spent on consultants, engineering, and builders fees to complete my application. I have incurred personal debt to purchase a unique and ideally located parcel of commercial real estate in the heart of the new medical corridor. I have worked countless hours to plan for the success of such a facility with specialists in plastic surgery, ENT surgery, ophthalmology, and orthopedic surgery. I realize my efforts alone are not sufficient reason to issue a CON as it is obvious from the CON application process as well as FMH's rebuttal that the primary factor is the show of need. We have done our very best to present accurate data and projections to support our case. Early on, I contacted an attorney recommended by the State who specializes in the "need" portion of the application, but he declined rendering assistance, stating conflict of interest associated with FMH and Howard County. While interest among physicians

remains high, true physician commitment, especially financial, will never occur based on a "possible CON." In addition, physicians fear revealing themselves to FMH for the purposes of an uncertain CON application process. These same physicians ask me weekly how the application is progressing and to keep them posted. I have every reason to believe a CON would bring more doctors forward than we can accommodate with two OR's.

The FMH letter is well prepared, but lengthy, redundant, and fairly dramatic using expressions such as "wholly failed," "bald assertions," fatal," and "must be denied." Upon review, there are four key points:

1. Physicians lack of sufficient case load. To reiterate our application, the numbers are as follows:

Dr. Andochick performs 600 cases a year and Dr. Jackson performs 500 cases per year; 95 percent of which are out-patient procedures. The three ophthalmologists, Dr. Segal, Dr. Busack, and Dr. Lapsa, are committed to the project and performs 720 cases per year between them. One group of orthopedic surgeons perform 500 out-patient procedures a year and is committed, but desires to remain anonymous awaiting for the CON decision. A second orthopedic group subsequently approached me asking to be included should we obtain a CON. The newly opened GI endoscopic center has approached me as they have already outgrown their current space in their new endoscopic center. My personal growth plans include adding a partner in the next year, thereby increasing the total number of plastic surgery cases. Although we must rely on some speculation for total yearly growth, I feel comfortable predicting that we can open with a 2,400 caseload with subsequent growth to follow. Concerning the use of endoscopic cases in our calculations, I conclude that the only endoscopic cases would be performed by Dr. Jackson which include endoscopic sinus surgery performed under general anesthesia in a fully equipped operating room.

2. The second major point includes cost containment. It is my understanding that smaller, specialty specific, maximally efficient centers can actually control costs more effectively. I have always considered competition to be both good for quality and for cost containment. In a community such as Frederick, we are free from any competitive forces with the only two surgical facilities being owned by Frederick Memorial Hospital thereby maximizing control by one entity and minimizing competition. In the simplest terms, the physicians in Frederick have no choice where they can perform their surgery. In addition, through reading state and national newsletters, one can learn that the Maryland prospective fee containment system is an out-dated system of controlling costs. Maryland is one of the most expensive health care states and it appears that there is a push for insurance companies in Maryland to mobilize patients to D.C. hospitals where negotiated fees are driving down costs. Competition in Frederick, even at a limited level, could only help with the efflux of patients and at the very least



stabilize overall costs in Frederick County and subsequently the State of Maryland.

3. The third major theme of the report stresses physician convenience stating "it would always be more convenient for physicians to have their own OR and that the CON process is intended to control that sort of proliferation." The changes in health care has limited patient access and decreased physician control over their working environments. Add to this the fact that small communities such as Frederick exist in a monopoly environment where physicians do not have a choice. As a provider of health care, the physician's goal is to take care of patients in the best possible fashion with an emphasis on quality maintaining a degree of efficiency. As a busy surgeon working 50 to 60 hours a week, I see only an advantage to a convenient work environment managed by the utilizing physicians.
4. The fourth point states that physicians failed to meet standards for providing charity care. I feel this is an unfair assumption. Every physician at Frederick Memorial Hospital is required to provide emergency on call service. I personally take call seven to ten days a month, 24 hours a day, to provide the hospital and community with a board certified plastic surgeon for traumatic injuries. The other plastic surgeons on staff cover the remaining days of the month and this is the case for every specialty.

It is not uncommon to spend hours on an evening, weekend, or holiday treating an uninsured patient and never seeing a penny. I recently was called in the middle of Thanksgiving dinner to treat an uninsured patient. When patients say "thank you" and explain that payment will create hardship, it is the rare physician to require reimbursement. For this same reason, I cannot imagine not treating uninsured patients in our center.

I have treated several young women who have been stricken with breast cancer and do not have insurance. I have gone to great lengths to perform their surgery at a considerable discount, obtaining free implants from McGhan Medical Corporation and attempting to streamline their care to prevent huge debt. Utilizing my own operating room would allow me more freedom to assist those less fortunate.

Finally, I have had the opportunity to monitor the feelings and desires of local surgical specialists. There is increasing momentum towards ambulatory surgical centers with physician input. Since a single OR does not require a CON, I foresee specialty specific or small multi-specialty centers developing in the near future. For instance, one OR could be established for ENT, plastic surgery, and ophthalmology. A second OR may be developed for orthopedic surgery, podiatry, and pain control. My purpose for

pursuing a two OR CON is an attempt to captivate this momentum into one center, thereby maximizing utilization and efficiency and controlling overhead.

In summary, the hospital's report emphasizes that the requirement for need has not been demonstrated. I realize that there is a degree of speculation as to how many physicians will be ultimately involved in our project. I feel confident of delivering 2,400 cases the first year followed by yearly growth. The impact to the hospital may be initially felt, but the void will soon be filled due to the influx of physicians and a rapid growth of Frederick. I can only assume that FMH has given strong consideration to this growth by applying for a CON in Mt. Airy and plans to apply for a CON for a two OR addition to the hospital by the year 2000. Does the hospital's report then mean there is no need for additional OR's in Frederick or no need for additional competing OR's in Frederick?

I respectfully request that my application is not dissected purely by statistics and numbers. I would hope that the reviewers read between the lines and numbers and view the physicians behind this application as individuals who want to actively participate in managing the dynamic course of medicine into the 21<sup>st</sup> century.

Thank you for your time and consideration.

Respectfully submitted,

Scott E. Andochick, M.D., D.D.S.

SEA:llp



## REQUEST FOR OPPORTUNITY TO PRESENT ORAL ARGUMENT

I hereby request the opportunity to present oral argument to the application reviewer before the reviewer prepares a recommended decision for consideration by the full commission.

Respectfully submitted,

Scott E. Andochick, M.D., D.D.S.  
915 Toll House Avenue, Suite 305  
Frederick, MD 21701

SEA:llp